

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-014929

06/01/2016

HON. RANDALL H. WARNER

CLERK OF THE COURT
K. Ballard
Deputy

DALLAS FISK, et al.

DAVID CAREY SHAPIRO

v.

HURRICANE A M T, L L C, et al.

KATHLEEN M KASSMANN

TRIAL MINUTE ENTRY
DAY 11

Courtroom: ECB-512

IT IS ORDERED directing the courtroom clerk to file copies of the depositions which contain the deposition designations and objections of the parties and the rulings of the court.

FILED: Copy of the Deposition of Gary Arnold, dated January 15, 2015
Copy of the Videotaped Deposition of Jaycee Carosella, dated October 31, 2014
Copy of the Videotaped Deposition of Matthew Coronado, dated October 23, 2014
Copy of the Videotaped Deposition of Kelsy Nicole Fee, dated June 25, 2015
Copy of the Deposition of Holly Kast, dated February 10, 2015
Copy of the Videotaped Deposition of Holly Kast, Vol. II, dated February 27, 2015
Copy of the Deposition of Diane J. Knickerbocker, dated July 22, 2014
Copy of the Deposition of Kenneth L. Knickerbocker, dated July 22, 2014
Copy of the Videotaped Deposition of Martin O'Dowd, dated March 12, 2015
Copy of the Deposition of William Thomas Stano, III, MD, dated June 23, 2015

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9:28 a.m. Jury trial continues from May 31, 2016. Plaintiff Dallas Fisk is not present but is represented by Counsel David Carey Shapiro and Luis P. Guerra. Defendants Hurricane AMT, LLC and Category 5, LLC (dba Hurricane Grill & Wings) are represented by Counsel Timothy L. Moulton and Kathleen M. Kassman. Defendants' client representatives are also present, Martin O'Dowd and Gary Arnold. The Jury is not present.

Court Reporter Barbara Stockford is present. A record of the proceedings is also made digitally.

Plaintiff's exhibit 1 is received in evidence.

Plaintiff's exhibit 2.001 is received in evidence.

Plaintiff's exhibit 5.001 is received in evidence.

Plaintiff's exhibit 256 is received in evidence.

9:38 a.m. The Jury is now present.

The court addresses the Jury regarding scheduling.

Defendants' case continues:

Kelsy Fee retakes the stand and testifies further.

The court receives questions from the Jury. Court and counsel review the same outside the hearing of the Jury.

The witness is questioned further.

FILED: Jury Question (No. 25)

The witness is excused.

Jacee Carosella is sworn and testifies.

Defendants' exhibit 100 is received in evidence.

Defendants' exhibit 99 is received in evidence.

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The court receives a question from the Jury. Court and counsel review the same outside the hearing of the Jury.

The witness is questioned further.

FILED: Jury Question (No. 26)

The court receives an additional question from the Jury. Court and counsel review the same outside the hearing of the Jury.

The witness is questioned further.

FILED: Jury Question (No. 27)

The court receives additional questions from the Jury. Court and counsel review the same outside the hearing of the Jury.

The witness is questioned further.

FILED: Jury Question (No. 28)

The court receives an additional question from the Jury. Court and counsel review the same outside the hearing of the Jury.

The witness is questioned further.

FILED: Jury Question (No. 29)

The court receives additional questions from the Jury. Court and counsel review the same outside the hearing of the Jury.

The witness is questioned further.

FILED: Jury Question (No. 30)

The witness is excused.

11:00 a.m. Court stands at recess.

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11:20 a.m. Court reconvenes with respective counsel and the Defendants' client representatives present. The Jury is present.

Court Reporter Barbara Stockford is present. A record of the proceedings is also made digitally.

Gary Arnold is sworn and testifies.

The court receives questions from the Jury. Court and counsel review the same outside the hearing of the Jury.

The witness is questioned further.

FILED: Jury Question (No. 31)

Brian Michael Goodwin is sworn and testifies.

11:58 a.m. The Jury is excused; court remains in session.

A disclosure issue is briefly discussed. The court will review the disclosure statement over the lunch hour and this issue will be discussed further after lunch.

Trial-time usage is reviewed.

12:03 p.m. Court stands at recess.

Defendants' exhibit 257 is marked for identification.

IT IS ORDERED directing the courtroom clerk to file copies of the trial transcripts which contain the testimony designations and objections of the parties and the rulings of the court.

FILED: Copy of the Reporter's Partial Transcript of Proceedings (Testimony of Matthew Douglas Coronado), dated August 12, 2014, in CR2012-113830-001
Copy of the Reporter's Transcript of Proceedings (Testimony of Matthew Douglas Coronado), dated January 9, 2014, in CR2012-113830-001

1:33 p.m. Court reconvenes with respective counsel and the Defendants' client representatives present. The Jury is not present.

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Court Reporter Barbara Stockford is present. A record of the proceedings is also made digitally.

The disclosure issue regarding Mr. Goodwin's testimony is discussed further.

Scheduling is reviewed.

Discussion is held regarding Defendants' exhibit 257.

1:39 p.m. The Jury is now present.

Brian Michael Goodwin continues testifying.

2:12 p.m. Court stands at recess.

2:18 p.m. Court reconvenes with respective counsel and the Defendants' client representatives present. The Jury is present.

Court Reporter Barbara Stockford is present. A record of the proceedings is also made digitally.

Brian Michael Goodwin continues testifying.

Plaintiff's exhibit 258 is marked for identification.

The witness is excused.

Let the record reflect the court reporter has been waived for the reading of the following depositions; however, a record continues to be made digitally.

Portions of Kenneth L. Knickerbocker's July 22, 2014 deposition are read to the Jury.

Portions of Matthew Coronado's October 23, 2014 videotaped deposition are presented to the Jury.

3:31 p.m. The Jury is excused; court remains in session.

Plaintiff's exhibit 258 is received in evidence.

Defendants' exhibit 92 is received in evidence.

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Defendants rest.

The court addresses counsel regarding a question previously received from the Jury.

FILED: Jury Question (No. 11)

Plaintiff moves for judgment as a matter of law regarding Holly Kast's fault.

IT IS ORDERED denying judgment as a matter of law on Holly Kast's fault for the reasons set forth on the record.

Plaintiff moves for judgment as a matter of law regarding the disclosure of Holly Kast as a non-party of fault.

IT IS ORDERED denying judgment as a matter of law on the allegation of non-party at fault.

Plaintiff moves for judgment as a matter of law as to Dallas Fisk's fault.

IT IS ORDERED denying judgment as a matter of law as to Dallas Fisk's fault for the reasons set forth on the record.

Plaintiff's exhibit 29 is received in evidence.

Discussion is held regarding Plaintiff's exhibit 21.

Jury instructions are discussed further and settled.

Defendants move for a mistrial for the reasons set forth on the record.

IT IS ORDERED denying the request for a mistrial. Defendants may draft a curative jury instruction for the court's consideration, which, if given, will be read to the Jury after closing arguments.

3:50 p.m. Court stands at recess.

4:08 p.m. Court reconvenes with respective counsel and the Defendants' client representatives present. The Jury is present.

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Court Reporter Barbara Stockford is present. A record of the proceedings is also made digitally.

Defendants formally rest.

Rebuttal:

Let the record reflect the court reporter has been waived for the presentation of the following depositions; however, a record continues to be made digitally.

Portions of Holly Kast's February 27, 2015 deposition are presented to the Jury.

Additional portions of Matthew Coronado's October 23, 2014 videotaped deposition are presented to the Jury.

Portions of William Thomas Stano, III's June 23, 2015 deposition are read to the Jury.

Plaintiff rests.

The court advises the Jury of the law applicable in this case.

4:30 p.m. The Jury is excused; court remains in session.

Discussion is held regarding the selection of an alternate juror.

Plaintiff makes an offer of proof regarding the DUI of Kelsy Fee and the DUI(s) of other guests of the bar.

4:34 p.m. Court stands at recess until 9:00 a.m. on June 2, 2016.